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10/693,534	10/25/2003	Nick E. Ciavarella	GOJ 03030	2298

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EXAMINER

CARTAGENA, MELVIN A

ART UNIT	PAPER NUMBER
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3754

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/693,534
Filing Date: October 25, 2003
Appellant(s): CIAVARELLA ET AL.

MAILED

APR 02 2007

Group 3700

Shannon V. McCue
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 12, 2006 appealing from the Office action mailed February 09, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 and 6-14 rejected under 35 U.S.C. 102(e) as being anticipated by US 6,607,103 to Gerenraich et al.

Gerenraich shows a dispenser as seen in Figs. 5 and 6, having a clip seen in Fig. 6 used in connection with a soap container 22 and having a key-plate 44, a semicircular hollow body 88 attachable to the container and adapted to receive a portion of the container, a flange 80 extending radially outward, a tab 126 extending rearward and vertical ribs as seen in Fig. 10, a rim 94 extending downwardly as seen in Figs 7 and 8, a locating notch 82, holding elements 84 and 92.

(10) Response to Argument

Appellant argues that the examiner's rejection relies on an assembly of parts found on separate structures. The structure of Gerenraich et al. as a whole is considered to be a universal clip that attaches to the container, the clip as claimed does not have to be made out one unitary piece.

The Appellant also argues that the claimed universal clip avoids the need of a keying system formed in the receiver, when in fact the structure of the receiver has to be very specific to the clip in order for the clip and the receiver to assemble and work together, very much as the

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assembly disclosed by Gerenraich et al. can be mounted on any type of container with a threaded neck connecting with the threads of element 44 and then locating element 44 within the locating notches on the receiving device. The arrangement of the device of Gerenraich et al. supports and restricts axial movement of the container as the actuating element is actuated to reciprocate the pump for dispensing from the container, see Fig. 8.

In response to the Appellant's arguments that the device of Gerenraich is does not enable one skill in the art to practice the claimed invention because bypasses a keying system, as mention before the Appellant device as claimed requires a specific structure to assemble with an specific structure on the container in a similar manner as required by the device of Gerenraich. Therefore, any person with ordinary skill in the art would be able to use the device of Gerenraich to support a container and dispenser product from the container.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Melvin Cartagena *Melvin Cartagena*

Conferees:

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